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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-191268

DATE: May 11, 1978

MATTER OF: Champion Packages Co.

DIGEST:

Statement in bid submitted in response to requirements-type solicitation that "prices are based on awards of destinations whose combined estimated usage is at least 5000 rolls" was properly accepted, since qualification evidenced bidder's intention to submit bid on grouping aggregating specified minimum estimated quantity, as permitted by regulations, and not to impose guarantee of minimum quantity to be ordered.

Champion Packages Co. (Champion) protests the award of a requirements-type contract to Cadillac Products, Inc. (Cadillac) under invitation for bids (IFB) No. FPGA-S-90112-A, issued by the General Services Administration (GSA), Federal Supply Service, Washington, D. C.

The solicitation called for bids on estimated quantities of rolls of Barrier Material, Wrapping Paper in accordance with specifications referred to in the IFB. The IFB listed 13 GSA Supply Distribution Facilities (destinations) and furnished estimated quantities ranging from 300 to 2,680 rolls for the various destinations. The IFB also stated that the estimates furnished were solely for informational purposes and that "no guaranteed minimum quantity" will be purchased. In addition, the solicitation indicated that award would be made item-by-item to the low responsive bidder.

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Champion maintains that Cadillac's low bid is nonresponsive because it was submitted with the qualification that "[t]hese prices are based on awards of destinations whose combined estimated yearly usage is at least 5000 rolls." Champion alleges that this statement qualified the bid by requiring a guaranteed minimum quantity or was so ambiguous so as to make the bid nonresponsive.

GSA, on the other hand, states that the obvious intent of Cadillac's statement was not to qualify the bid to include a guaranteed minimum quantity, but to make the bid "all or none" with respect to the referenced quantity.

We agree with GSA. It is clear from the language of the qualifying provision that Cadillac only intended to preclude the Government from accepting its bid for any combination of the destinations listed in the IFB where the estimated requirements were less than 5000 rolls in the aggregate. We think it is unreasonable to construe Cadillac's statement as imposing a guarantee that a minimum quantity would be purchased.

In this connection, Clause 42(b) of GSA Form 1424, which was incorporated into the bid documents, gave the Government the right to accept a bid submitted on an "all or none" or similar basis if the bid was low on each item to which it was made applicable. Furthermore, Federal Procurement Regulations 1-2.404-5 (1964 ed.) provides "[u]nless the invitation for bids so provides a bid is not rendered nonresponsive by the fact that the bidder specifies that award will be accepted only on all, or a specified group, of the items included in the invitation for bids."

We find that Cadillac's qualification evidenced an intention to eliminate the Government's right to make an award for any combination of destinations for which the aggregate estimate was less than 5000 rolls. We find nothing improper with such a qualification, see General Fire Extinguisher Corporation, 54 Comp. Gen. 416, 74-2 CPD 278, and the Government was free to accept the bid on that basis if evaluation revealed it was in the best interest of the Government to do so. Since Cadillac's bid was low on all destinations, we believe the award to the firm was proper.

Accordingly, the protest is denied.

R. F. Keller

Deputy Comptroller General
of the United States